

REMARKS

Claims pending in the instant application are numbered 1-30. Claims 1-30 presently stand rejected. Claim 1 has been amended. The Applicant respectfully requests that the instant application be reconsidered in view of the amendments and following remarks.

35 U.S.C. § 102 Rejections

In the December 18, 2002 Office Action, claims 1, 6-11, 14-15 and 18-30 are rejected under 35 U.S.C. § 102(e) as being clearly anticipated by Shah-Nazaroff et al., U.S. Patent Number 6,317,881.

The Applicant respectfully traverses the rejections. A claim is anticipated only if each and every element, as set forth in the claim, is found in a single prior art reference. M.P.E.P. § 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987).

Claim 1 as presently amended expressly recites "selectively storing, by the client system, the selected one or more of the plurality of data files broadcast by the server system." Thus, the Applicant expressly recites selectively storing one or more of a plurality of data files by a client system.

Shah-Nazaroff is directed to viewer feedback of broadcasts. The viewer selects a broadcast to be viewed in light of a broadcast rating or a broadcast ranking list. (col. 4, lines 27-34; col. 6, lines 6-10). Also, the viewer views the broadcast when aired. (col. 7, lines 1-3). However, Shah-Nazaroff fails to disclose, teach, or fairly suggest the Applicant's expressly recited limitation of

"selectively storing, by the client system, the selected one or more of the plurality of data files broadcast by the server system." (emphasis added).

Accordingly, since at least one or more expressly recited elements of the presently claimed invention are not disclosed, taught or fairly suggested in the prior art reference, the Applicant respectfully submits that the presently claimed invention is not anticipated by Shah-Nazaroff. Independent claims 7, 11, 15, 19, 23 and 27 distinguish for at least the same reasons as claim 1. The Applicant further notes that claims 6, 8-10, 14, 18, 20-22, 24-26 and 28-30 are dependant claims which distinguish for at least the same reasons as their respective independent base claims in addition to adding limitations of their own. Therefore, the Applicant respectfully requests that the instant § 102 rejections be withdrawn and that the presently claimed invention be in condition for allowance.

35 U.S.C. § 103 Rejections

In the December 18, 2002 Office Action, claims 2-5 and 12, 13, 16 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shah-Nazaroff et al., U.S. Patent Number 6,317,881, in view of Payne et al. U.S. Patent Number 6,021,433.

The Applicant respectfully traverses the rejections. Pursuant to 35 U.S.C. § 103(c), for all applications filed on or after November 29, 1999, references that qualify as prior art under 35 U.S.C. § 102(e) are disqualified as prior art in determining obviousness under 35 U.S.C. § 103 if the subject matter of the reference and the claimed invention "were, at the time the invention was made,

owned by the same person or subject to an obligation of assignment to the same person." M.P.E.P. §§ 706.02(k), 706.02(l)(1), (2) and (3), 2146.

The present application was filed March 22, 2000. Shah-Nazaroff qualifies as a prior art reference only under § 102(e). The present application and Shah-Nazaroff were, at the time the invention of the present application was made, owned by Intel Corporation, Santa Clara, CA. Therefore, Shah-Nazaroff is disqualified as a prior art reference in determining obviousness under § 103 of the presently claimed invention. M.P.E.P. § 706.02(l)(3).

Even if Shah-Nazaroff were a proper reference under 35 U.S.C. § 103, dependent claims 2-5, 12, 13, 16 and 17 are patentable over Shah-Nazaroff in view of Payne. If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is also nonobvious. M.P.E.P. § 2143.03 citing *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). The Examiner has made no rejections under 35 U.S.C. § 103 to independent claims 1, 7, 11, 15, 19, 23 and 27. Also, as discussed above in conjunction with the § 102 rejections, independent claims 1, 7, 11, 15, 19, 23 and 27 are not anticipated by Shah-Nazaroff. The Applicant respectfully submits that dependent claims 2-5, 12, 13, 16 and 17 are nonobvious by virtue of their dependence on allowable independent base claims.

Therefore, the Applicant respectfully requests that the instant § 103 rejections be withdrawn and that the presently claimed invention be in condition for allowance.

Applicant requests consideration of the March 22, 2000 Information

Disclosure Statement

According to the Applicant's records, an Information Disclosure Statement (IDS) was submitted with the originally filed application on March 22, 2000.

However, the Applicant's copy of the December 18, 2002 Office Action does not contain an Examiner initialized copy of the corresponding Form PTO-1449. The Applicant only received an Examiner initialized copy of Form PTO-1449 as submitted with a separate IDS mailed February 20, 2002.

Therefore, the Applicant respectfully requests that the cited documents of the March 22, 2000 IDS be considered and that the corresponding Form PTO-1449 be initialed by the Examiner to indicate such consideration and a copy thereof be returned to the Applicant.

CONCLUSION

In view of the foregoing amendments and remarks, the Applicant submits that all grounds for rejection have been properly traversed. The Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Attached hereto is a marked up version of the changes made to the claims by the current amendment. The attached page is captioned "VERSION WITH MARKINGS TO SHOW CHANGES MADE."

Charge Deposit Account

Please charge our Deposit Account No. 02-2666 for any additional fee due in this matter.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Date: _____

1/10/03

[Signature]

Lawrence E. Lycke
Reg. No 38,540

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VERSION WITH MARKINGS TO SHOW CHANGES MADE
IN THE CLAIMS

1 1.(Amended) A method, comprising:
2 receiving meta-data broadcast by a server system, the meta-data
3 including descriptions of a plurality of data files to be broadcast later by
4 the server system;
5 selecting, by a client system, in response to a content rating table
6 one or more of the plurality of data files described by the meta-data, the
7 content rating table generated responsive to data files previously
8 accessed by a user;
9 receiving, by the client system, each one of the selected one or
10 more of the plurality of data files broadcast by the server system; and
11 selectively storing, by the client system, the selected one or more of
12 the plurality of data files broadcast by the server system.